

**(1998) 11 KAR CK 0051**

**In the Karnataka High Court**

**Case No :** Writ Appeal No's. 5580, 5622 and 5678 of 1996

Smt. Gowramma and Others

APPELLANT

Vs

The Land Tribunal and Others

RESPONDENT

**Date of Decision :** 04-11-1998

**Acts Referred:**

Karnataka (Personal and Miscellaneous Inams Abolition) Act, 1954 — Section 9

**Citation :** (2002) 2 KCCR 1025

**Hon'ble Judges :** S.R. Bannurmath, J; Ashok Bhan, J

**Bench :** Division Bench

**Advocate :** Sreevatsa Associates in Writ Appeal No. 5678 of 1996 Kumar and Kumar in Writ Appeal No. 5580 of 1996 and G. Shantha Raju, in Writ Appeal No. 5622 of 1996, for the Appellant; G. Papireddy, A.G.A. for Respondent 1 in Writ Appeal No. 5678 of 1996 and for Respondents 3 and 4 in Writ Appeal Nod. 5580 and 5622 of 1996, H.R. Ananthakrishna Murthy, for Respondent 2 in Writ Appeal No. 5678 of 1996 and for Respondent 1 in Writ Appeal No. 5580 and 5622 of 1996, G. Kasturi, for Respondent 3 in Writ Appeal No. 5678 of 1996 and for Respondent 2 in Writ Appeal No. 5580 and 5622 of 1996 and H.P. Mudalappa, for Respondent 4 in Writ Appeal No. 5678 of 1996 and Respondent 5 in Writ Appeal No. 5580 of 1996, for the Respondent

## Judgement

Ashok Bhan, J.—This order shall dispose of Writ Appeal Nos. 5580 of 1996, 5622 of 1996 and 5678 of 1996, as they arise from a common order passed by a Single Judge which is under appeal before us. The points involved are same and similar in all these appeals.

2. Appellants filed writ petitions challenging the order passed by the Land Tribunal, Bangalore North Taluk, Bangalore, dated 8th June 1994 in LRF/INA/14/56-57 on several grounds. The pleas raised by the Petitioners were rejected by the Single Judge. Writ Petitions were dismissed confirming the order of the Land Tribunal.

3. Aggrieved by the order of the learned Single Judge, the present appeals have been filed in which apart from the pleas which had been raised before the Single

Judge an additional plea has been raised that the Land Tribunal had no jurisdiction to decide the dispute between the parties as the Karnataka Inams Abolition Laws (Amendment Act), 1979 (hereinafter referred to as the Amending Act of 1979) by which the Power was conferred on the Tribunal to adjudicate the disputes was struck down as ultra vires being beyond the legislative competence of the State Legislature in the case of Shri Kudli Sringeri Maha Samsthanam Vs. State of Karnataka, dated 24th April 1992. As the Additional plea raised is a question of law which goes to the root of the matter regarding the jurisdiction of the Tribunal which decided the case, we permit the Appellant to raise this plea for the first time in these appeals.

4. Under the Karnataka (Personal and Miscellaneous) Inam Abolition Act, 1956 (hereinafter referred to as "the Act of 1956"), the power to adjudicate the dispute relating to grant of occupancy rights was conferred on the Special Deputy Commissioner of the District concerned. This was amended by the Amending Act, 1979. Section 9 was amended by substituting the words "Deputy Commissioner" by the word "Tribunal". Keeping in view the said amendment to the Act, the applications filed were transferred to the Tribunal which decided the matters. Vires of the amending Act were challenged in this Court in Shri Kudli Sringeri Maha Samsthanam's case supra and this Court by its order dated 24th April 1992, upheld the plea that the Amending Act, 1979, was ultra vires the Constitution being beyond the legislative competence of the State legislature.

5. Question as to what will happen to the decisions already rendered by the Tribunal was examined by a Division Bench of this Court in Eshwarappa v. The State of Karnataka and Ors. ILR 1997 Kar 3335 and it was held that under the defacto doctrine the subsequent declaration of appointment of an adjudicating body as illegal cannot tell upon the adjudication of an issue between two Private litigants. For coming to this conclusion, reliance was placed upon the judgment of the Supreme Court in the case of Gokaraju Rangaraju Vs. State of Andhra Pradesh, .

6. This judgment did not clarify as to what will happen to those orders of the Tribunal which were rendered by the Tribunal after the rendering of the judgment in Shri Kudli Sringeri Maha Samsthanam's case, Supra on 24th April 1992. Learned Judge who had rendered the judgment in Eshwarappa's case supra, clarified the position in a subsequent judgment in B.R. Manjegowda v. State of Karnataka and Ors. ILR 1998 Kar 66 and in our view rightly and held that only those orders of the Tribunal which were rendered between the period of coming into force of Amending Act, 1979, till it was declared to be Ultra Vires on 24th April, 1992, were saved. The orders passed by the Tribunal after the Amending Act, 1979, was declared to be ultra vires were not saved and liable to be quashed as they were passed by a Tribunal having no jurisdiction.

7. In the present case, as referred to in the earlier part of the judgment, the Land Tribunal had decided the applications on 8th of June 1994 i.e., after the Amending Act of 1979 was declared to be ultra vires. The Order passed by the

Tribunal, therefore is held to be passed by a Tribunal having no jurisdiction to do so. The order of the Tribunal as well as the learned Single Judge under appeal before us, are quashed. The matter is remitted to the Special Deputy Commissioner in whom the jurisdiction to decide the applications now vests. Parties are directed to appear through their Counsel before the Special Deputy Commissioner for Inams Abolition, Bangalore District, Bangalore, on 7th of December 1998 from which date the Presiding Officer shall proceed to determine the rights of the parties in accordance with law after affording due opportunity to the parties concerned. It is made clear that the parties shall be at liberty to raise all available pleas to them before the Presiding Officer. The appeals are disposed of accordingly. No costs.